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IMPLEMENTATION OF THE INTERNATIONAL CONVENTION ON THE SUPPRESSION AND PUNISHMENT OF THE CRIME OF APARTHEID

Reports submitted by States parties under article VII of the Convention

Addendum

Colombia

[12 March 1991]

Introduction

1. The Ministry of Foreign Affairs of Colombia presents its compliments to the distinguished Group of Three of the United Nations Commission on Human Rights and takes pleasure in submitting its first report on the measures taken to implement the provisions of the International Convention on the Suppression and Punishment of the Crime of Apartheid.

2. The first part of this report deals with Colombia's general policy towards apartheid and the second part with specific policies which the Government has developed in recent years regarding the rights of the various ethnic groups living in Colombia and the policies which it intends to pursue over the next four years.

3. In order to supplement the information provided in this report, the Committee is respectfully invited to consult the fourth periodic report on the implementation of the International Convention on the Elimination of All Forms of Racial Discrimination, submitted by Colombia under article 9 of the Convention, and its third periodic report on the implementation of the International Covenant on Civil and Political Rights.

I. THE GENERAL POLICY OF COLOMBIA TOWARDS APARTHEID

4. The Colombian Government's conviction that apartheid is a crime against humanity and that together with racial segregation and discrimination it constitutes a serious offence and a violation of individual rights, led it to accede, through Act No. 26 of 1987, to the International Convention on the Suppression and Punishment of the Crime of Apartheid, which thus entered into force in Colombia on 22 June 1988.

5. Colombia has repeatedly supported measures adopted in the context of the United Nations to implement the Programme of Action Against Apartheid and has constantly rejected any policy of racial discrimination.

6. Colombia has no political, diplomatic, military, cultural or sporting links with the Government of South Africa.

7. The Government of Colombia has supported popular movements struggling to eliminate apartheid and to establish a democratic non-racial system in South Africa. Accordingly, Colombia has sponsored and approved a large number of resolutions in the United Nations General Assembly and the Security Council (of which it was a member until December 1990), some of which are listed below:

(i) Resolution 44/1. Death sentence passed on a South African patriot;

(ii) Resolution 44/17. Cooperation between the United Nations and the Organization of African Unity;

(iii) Resolution 44/27. Policy of apartheid of the Government of South Africa:

A. International solidarity with the liberation struggle in South Africa;

B. International support for the eradication of apartheid in South Africa through genuine negotiations;

C. Comprehensive and mandatory sanctions against the racist regime of South Africa;

D. Imposition, coordination and strict monitoring of measures against racist South Africa;

E. International financial pressure on the apartheid economy of South Africa;

...

G. Programme of work of the Special Committee against Apartheid;

H. Oil embargo against South Africa;

...

K. Concerted international action for the elimination of apartheid;

(iv) Resolution 44/52. Second Decade to Combat Racism and Racial Discrimination;

(v) Resolution 44/68. Report of the Committee on the Elimination of Racial Discrimination;

(vi) Resolution 44/69. Status of the International Convention on the Suppression and Punishment of the Crime of Apartheid.

The Government of Colombia has also hailed the work of Mr. Nelson Mandela and his selfless struggle to achieve the liberation of his people, and has awarded him the "Orden Nacional al Mérito, Grado Gran Cruz" decoration (Decree No. 1433, of 15 June 1988).

8. Colombia was a member of the United Nations Council for South West Africa from 1967, when South Africa's mandate over the territory of South West Africa came to an end. The Council was the sole legal authority that administered the territory until it achieved complete independence. As a member of the Council, Colombia gave its support to all the steps taken to achieve the independence of Namibia and also supported many resolutions, such as resolution 435 (1978) and resolutions 628 (1989), 629 (1989), 632 (1989), 640 (1989) and 643 (1989).

9. On 21 March 1990, Namibia achieved its aim and became an independent nation. Colombia immediately sought to establish formal relations with the new republic, and on 28 April 1990 a joint communiqué was signed at United Nations Headquarters, New York, in which the two Governments established diplomatic relations and confirmed the bonds of friendship and cooperation between them for the mutual benefit of their peoples; the decision was based on mutual respect for the principles of international law and for the provisions of the Charter of the United Nations, and on the principles of peace, security, economic development and the elimination of all forms of colonialism and racial discrimination advocated by the Movement of Non-Aligned countries.

II. GOVERNMENT POLICIES ON THE RIGHTS OF ETHNIC GROUPS IN COLOMBIA

10. As the Group of Three is aware, in Colombia there is a great diversity of ethnic groups, resulting in an incomparably rich national heritage, both

culturally and socially. There are at present 81 indigenous groups, comprising over half a million persons, who speak nearly 75 different languages and inhabit 25 per cent of Colombian territory and have their own social and cultural world.

11. While it is true that until very recently these communities did not receive the care and attention they needed from the State, the situation is being corrected gradually but effectively with great concern being shown by the Government.

12. In order to remedy situations of marginalization, a number of measures have been adopted to recognize the inalienable rights of the indigenous peoples and assist them with specific policies.

13. The fundamental objective of the Colombian Government in recent years has been to take steps, design projects and support initiatives by the indigenous communities to strengthen the three-way relationship between the State, the indigenous peoples and society.

14. All these activities have been carried out through the Ministry of the Interior's Indigenous Affairs Division (DAI) by the Office of the President of the Republic, using the National Rehabilitation Plan, the National Planning Department (DNP), the Colombian Land Reform Institute (INCORA), the National Institute of Renewable Natural Resources and the Environment (INDERENA), the Ministry of Education, the Ministry of Health, indigenous organizations and other bodies.

15. One of the serious problems which affected the indigenous inhabitants of the Amazon area of Colombia was the wanton destruction of the natural resources of the Basin. Accordingly, the Government applied in that area the system of national parks and indigenous reservations.

16. The handing over of extensive tracts of land to the indigenous inhabitants did not at any time signify the pursuit of an apartheid policy. On the contrary, it was a recognition of the fact that they are the ancestral masters and that they are preserving the tradition necessary in order to utilize resources in harmony with nature. This measure was an important step both for the protection and promotion of indigenous rights and for the preservation of the world's ecosystem.

17. Its general purpose was to recognize the right of the indigenous communities to the territories traditionally occupied by them, to adopt programmes for the management, conservation, renewal and exploitation of natural resources, to upgrade the reservations by acquiring the developed land owned on them by third parties and allocating them free of charge to indigenous communities, granting lands to the indigenous communities which had none, and extending the reservations dating back to colonial times by acquiring more land.

18. The reservations, whether those of colonial origin or those set up by the National Agrarian Reform Institute (INCORA), are as follows:

Type of reservation	No.	Total hectares	Persons protected
Colonial	81	399 688	156 680
Established by INCORA 1967-1986	158	12 380 780	127 697
Established by INCORA 1986-1989	63	13 360 641	27 397
Total	302	26 141 109	311 774

19. The legislation on reservations consists basically of Act No. 135 of 1961, Act No. 31 of 1967 approving the ILO Convention concluded in Geneva in 1957 and the New Agrarian Reform, whereby INCORA itself can set up indigenous reservations (annexes 1 and 2).

20. It is important to stress that the above and other legislative measures adopted under the same policy are not intended to divide the population along any racial lines, to prohibit contacts with other racial groups or to restrict the right to freedom of movement or residence. Rather, the purpose is to preserve the cultural tradition and heritage by arranging sports events and through use of the language and other traditional expressions of each particular tribe.

21. Moreover, in keeping with the Government's purpose, the indigenous communities are guaranteed the right to use the renewable natural resources on their lands and, with the common consent of the various communities, steps have been taken to ensure the monitoring, renewal and sustainable use of those resources. To that end, on the basis of Resolution No. 0997 of 19 September 1987, indigenous inspectors of the natural resources of the reservations were appointed.

22. The Government's steps guarantee the racial groups the necessary conditions to organize themselves in accordance with their own usages and customs by virtue of Act No. 89 of 1890 (annex 3, pp. 145-149) and to strengthen indigenous participation in decision-making on policies and programmes affecting them by creating a series of mechanisms with indigenous participation, such as the Municipal Rehabilitation Councils, the Indigenous Affairs Policy Committees and the Sub-Committee of the Commission on Mining Legislation Studies and Reform.

23. Similarly, the Ministry of Agriculture issued Decree No. 2001 of 28 September 1988 establishing the "cabildos indígenas" (indigenous municipal councils) as "public entities of a special character" to govern the indigenous inhabitants and administer their territories (annex 3, pp. 155-159).

24. The indigenous population's powers of self-government were also made stronger in regard to the selection, formulation, implementation, control and direct management by that population of small community projects.

25. The Government's basic premise has been implementation of the rules on the protection of indigenous communities and the safeguarding of their rights on terms of equality with other nationals, while preventing racial discrimination and punishing those who perform such acts.

26. With the aim of guaranteeing equal treatment before the law, courses on indigenous legislation have been organized in the various communities; that task was carried out by the Ministry of the Interior's Indigenous Affairs Division, which provided legal assistance for the preservation of traditional values, community rights, territorial development, renewal of the cabildos and studies on the establishment of foundations, corporations and other legal entities. In particular, steps were taken to prevent violation of the human rights of the indigenous inhabitants in areas of armed confrontation with the guerrillas and, in addition, to implement the law which exempts indigenous inhabitants from military service.

27. In recent years, there have been training programmes to acquaint public bodies with indigenous legislation and to make sure that they respect the cultural values of the communities and that public officials, regardless of their status or post, apply the provisions which protect the rights of those communities. In addition, the programmes "Amerindian Thought" and "Human Rights" have been broadcast on the radio. Furthermore, pamphlets on indigenous legislation have been prepared under the National Rehabilitation Plan (annex 3) as well as a book on the Colombian Government's policy for the defence of indigenous rights and the conservation of the Amazon Basin.

28. Moreover, to promote the welfare of the indigenous peoples and provide them with a stable economy, the Government has supported indigenous initiatives for suitable development of their lands. These programmes have been formulated with due regard for the traditional economic bases of the communities and are based on producing more small surpluses for trading purposes and on guaranteeing basic services and improving infrastructure.

29. Major steps have been taken in farming. In this connection, programmes have related to raising cattle, sheep, and pigs and animal breeding, sugar mills, fish farms, crop improvement and diversification, marketing and low-interest loans.

30. According to the reports of the National Planning Department, in the period August 1986 to May 1990, the Government invested the sum of Col$ 21,444,126,000.

31. Protection of the right to health of the indigenous inhabitants has been strengthened by providing free medical assistance in accord with the traditional medicine of the various ethnic groups. Steps were taken to implement Decision No. 10013 of 1981, issued by the Ministry of Health, specifying that health services must be provided with due regard for the

cultural characteristics of each community and that both the supply of drugs and medical care for indigenous inhabitants must be free of charge (Annex 3, pp. 165-167).

32. The right to education is guaranteed by legislative measures, more particularly in recent years by Decree No. 1142 of 1978, which recognizes ethnic pluralism and sets out the right of the indigenous communities to receive education in keeping with their social, cultural and economic characteristics (annex 3, pp. 163-165).

33. The main purpose of the entire education programme has been to enhance the social decision-making capacity of the indigenous inhabitants with regard to their own future, as an essential factor in the exercise of political rights and self-determination.

34. Decree No. 2230 of 1986 set up the National Committee for Indigenous Linguistics, under the Colombian Institute of Anthropology (ICAN), to advise the Government on the formulation of policies for research, dissemination, protection, teaching, the training of experts in ethnolinguistics and the preservation of the Amerindian languages spoken in Colombia.

35. To facilitate access by indigenous inhabitants to higher education, bearing in mind that one of the main problems of the indigenous student population on completing secondary education is lack of money to enter university, the National University of Colombia has taken a decision to ensure that 2 per cent of its available places will be set aside for indigenous candidates.

36. Moreover, the "Alvaro Ulcué" Fellowship Fund has been set up, and the finances are managed by the Colombian Institute for Educational Credits and Technical Studies Abroad (ICETEX); the purpose of the Fund is to support indigenous students in their pre-university and pre-graduate studies.

37. The Colombian Government considers that the policy for the protection of the rights of the indigenous peoples cannot be separated from the measures taken for the conservation and preservation of the Earth's environment. Uncontrolled development is obviously a threat to the whole of mankind, leading, as it does, to indiscriminate exploitation of non-renewable natural resources, destruction of the ozone layer, pollution of the seas and the air, acid rain, climate changes, and nuclear tests and disasters. The Amazon region is vital, not only for the welfare of the indigenous communities that live there, but also for the conservation and preservation of the world's environment. Mindful of that fact, Colombia has decided to conserve the ecosystems and to respect the rights of the indigenous inhabitants of the Amazon region. As a result, areas for special management have been created and recognition has been given to the rights of the indigenous inhabitants to ownership of the land, use of natural resources, social and cultural self-determination and full participation in taking decisions that affect them.

38. Building on the policies pursued in the past in respect of the indigenous inhabitants, the present Government of President César Gaviria Trujillo proposes that a set of objectives should be formulated, combining the efforts

of all the bodies working with indigenous communities, to execute the State's current programmes of modernization, community participation and administrative decentralization.

39. The specific objectives that will be pursued over the next four years and given priority by the Government are as follows:

Land and natural resources

(a) To complete the process of establishing indigenous reservations for the communities where the situation regarding their territory has not yet been defined;

(b) To upgrade the reservations already established and to help to stabilize any colonization that may affect indigenous territories;

(c) To increase the size of those indigenous reservations which are too small for social, economic and cultural development;

(d) To grant land to those indigenous communities which have no land or insufficient land;

(e) To establish reservations with lands and improvements provided by the National Land Fund;

(f) To restructure the reservations set up during the colonial period, whose titles are legally valid;

(g) To support the initiatives of the indigenous population to ensure the preservation, monitoring, renewal and sustainable use of natural resources.

Production

To strengthen the traditional economies and, when it is viable, to permit the free adoption of modern alternative methods of production and self-sufficiency to enable the indigenous communities to give priority to producing more supplies for themselves and additionally to improving their market sales.

Exercise of rights

To consolidate, within the existing legal system, the special provisions that protect and establish the framework of the relationships between the State, the indigenous peoples and the other institutions of social and political life.

State administration

(a) To set up coordinating bodies to enable the indigenous population to participate effectively in determining, planning and developing the programmes and services made available to the communities by the State;

(b) To encourage formative processes which will enable the communities to assess their own resources and identify their needs and State officials to identify possible institutional inputs in a context of respect for the identity of the communities;

(c) To improve the administrative capacity and increase the participation of the indigenous communities in the decisions and programmes which affect them, on the basis of their own forms of organization;

(d) To devise mechanisms that will enable State representatives to be informed about the indigenous communities and equip themselves to deal with them in the appropriate manner.

Study

To improve ethnic education programmes, by upgrading the process, increasing their coverage and encouraging the research which will serve as its basis, especially linguistic research.

Health

To improve the living conditions of the indigenous communities by initiating participatory primary health care programmes, formulated and developed in the light of the special characteristics of each ethnic group and region.

Social communications

(a) To design a social communications component that seeks to influence globally the perception of the indigenous peoples and to generate a culture that respects and appreciates their social and cultural worth;

(b) To launch communications strategies designed especially for each sector of the population;

(c) To conduct studies which will enable the communications needs of the indigenous peoples to be ascertained and evaluated and to allow them to develop their own means and processes of communication among themselves.

40. Similarly, the following programmes will be organized in coordination with all the agencies working with the indigenous communities, and with the communities themselves:

Land and natural resources programme

(a) In conformity with existing legal provisions, the Colombian Land Reform Institute (INACORA) will complete the process of establishing territorial reservations, for some 35,000 indigenous people, situated in the forest and savannah area;

(b) Measures will be taken to upgrade indigenous territories, by acquiring land developed by settlers located within the reservations;

(c) Land will be purchased for those communities which have lost their land or which have insufficient land, or to restructure colonial reservations consisting of smallholdings;

(d) The lands of the National Land Fund purchased specifically for the indigenous communities will be legalized through the establishment of reservations;

(e) Socio-economic surveys will be carried out for the establishment of reservations on uncultivated lands and in order to determine land requirements and the areas likely to affect those requirements by INACORA's acquisition programme for the restructuring of reservations dating back to the colonial period;

(f) Reservations that have already been established will be demarcated and staked out by setting up boundary posts and fences;

(g) INACORA, in cooperation with the Indigenous Affairs Division of the Ministry of the Interior, will examine the titles of the colonial indigenous reservations;

(h) There will be cooperation with the indigenous population to ensure the sustainable development of natural resources, through participatory programmes that will be launched in the areas of education and environmental management and the execution of specific projects for resource replenishment, reafforestation and the natural recovery of deteriorated ecological resources. Special emphasis will be placed on preserving catchment basins and on forest renewal;

(i) The National Institute for Renewable Natural Resources and the Environment (INDERENA) will, jointly with the regional corporations and the indigenous organizations and authorities, take the necessary steps for the development of community land, by assisting the municipal councils and the traditional authorities in establishing areas of special management, to be set aside for agriculture, forestry, and for a combination of farming, forestry and animal rearing. Similarly, mechanisms will be devised to create ecological barriers to cushion and protect the indigenous territories from areas of settlement;

(j) Studies will be carried out on the social, cultural and environmental impact of the development programmes, especially those requiring infrastructure work which will affect the indigenous population in some way.

Production and funding programmes

41. Funding and production promotion programmes carried out by State bodies will be based on the following premises:

(a) Use and acceptance of indigenous peoples' know-how and production methods;

(b) Full participation by beneficiary communities in the design and implementation of production programmes;

(c) Support for regional projects relating to technical assistance, transport and product marketing.

42. Production alternatives designed with a view to self-sufficiency, the improvement of those traditional production systems that can be improved and the adoption of technologies suited to the ecosystem will be created in order to strengthen the economies of indigenous communities.

Programmes for the exercise of rights

43. The Indigenous Affairs Division will support and handle recommendations submitted by indigenous councils to the National Constituent Assembly.

44. The Indigenous Affairs Division will assume responsibility for advising and providing legal protection for indigenous communities and their members. It will take account of the internal procedures the indigenous communities use to settle their disputes and of their customary law and traditional methods of imposing penalties. The Colombian Family Welfare Institute (ICBF) will be responsible, in cooperation with the Ministry of the Interior, for dealing with situations relating to family matters.

45. Efforts will be made to have the Congress of the Republic adopt and ratify Convention No. 169 (1989) adopted by the International Labour Conference in Geneva in June 1989.

Programmes relating to the modernization, adaptation and management of the Government

46. A Permanent National Technical Commission on Indigenous Affairs (CONAI), an inter-agency body with indigenous participation, will be set up to coordinate, follow up, evaluate and adapt Government and supervisory activities relating to the human rights situation in indigenous communities.

47. In accordance with Decree No. 00312 of 1984, support will be provided for departmental indigenous development committees and encouragement will be offered for the establishment of others in regions where they do not yet exist.

48. Regional Indigenous Development Plans (PREDI) will be formulated and coordinated with the Integration Secretariat of the Office of the President and by the Ministry of the Interior's Division of Indigenous Affairs, with the participation of indigenous communities.

49. The Ministry of the Interior's Indigenous Affairs Division will be restructured in order to make it an administrative, technical and scientific body with its own resources and administrative autonomy.

50. Efforts will be made to establish a committee for the protection of the human rights of indigenous communities in cooperation with the Office of the Presidential Adviser on Human Rights.

51. In order to carry out the activities resulting from this policy, working methods will be standardized and inter-agency coordinating bodies will be set up by means of integration agreements and the provision of more financial, technical and human resources.

Ethnic education programme

52. The guideline will continue to be the ethnic education model adopted in the provisions contained in Decree No. 1142 of 1979, which recognizes ethnic pluralism and establishes the right of indigenous communities to receive an education in keeping with their socio-cultural and economic characteristics (annex 3, pp. 163-165).

53. Support will be provided for the activities of the National Committee for Indigenous Linguistics, which was set up as an advisory body to the Government for the formulation of policies relating to activities in connection with Amerindian language research, dissemination, protection, instruction and training.

54. Encouragement and support will be provided for indigenous education projects based on curricula designed by agreement with indigenous communities.

55. Support will continue to be given to the Alvaro Ulcué Fellowship Fund in order to facilitate access by members of indigenous communities to higher education.

56. Measures will be adopted to evaluate education programmes and the Summer Language Institute with the support and advice of the National Committee for Indigenous Linguistics.

57. The Ministry of Education and the Indigenous Affairs Division will coordinate activities to keep abreast of the indigenous communities' educational situation. Research work and educational processes will promote recognition of elements of the indigenous communities' historical and cultural heritage that have declined and may disappear.

58. Objective information on indigenous populations will be included in school curricula in order to create positive awareness of their situation in the country.

59. Encouragement will be provided for free intercultural exchanges based on the particular culture of each community and with a view to facilitating, in a critical way, access to and knowledge and understanding of cultural elements and expressions of the rest of society.

60. Campaigns will be conducted to disseminate information on indigenous legislation and knowledge of Indian peoples at the national and regional levels. Special courses will be given to Government officials who perform their functions in indigenous territories and to indigenous organizations and authorities, and training will be offered to teachers on the general concept of ethnic education.

Health programmes

61. Efforts will be made to improve the living conditions of indigenous communities by strengthening their traditional systems of medicine and methods of prevention and supplementing them with coordinated primary health care programmes. On the basis of Decree No. 1811 of 1990 (annex 4), activities will be coordinated by the Indigenous Affairs Division and the Ministry of Health in order to set up a permanent special technical unit composed of qualified staff to assume responsibility for the full training of medical and paramedical personnel working in indigenous areas, to design and follow up health programmes in cooperation with indigenous communities and to ensure the implementation of the legislation in force in this regard.

62. Studies on the structural factors that affect the morbidity and mortality rates of some indigenous groups will be carried out with the support of the Francisco José de Caldas Colombian Fund for Scientific Research and Special Projects (COLCIENCIAS) and the National Health Institute (INS).

63. The aim will be to provide health services for all indigenous communities and to set up flexible mechanisms for the diagnosis and referral of patients.

64. Where necessary, special programmes for mother-child care will be implemented on the basis of elements of indigenous culture and activities for the monitoring, supervision and treatment of undernourishment and malnutrition will be carried out with the support of the Colombian Family Welfare Institute (ICBF).

65. The Ministry of Health will make the necessary changes in Decree No. 1811 of 1990 on the basis of the identification of the problems involved in its implementation and of recommendations made by indigenous communities and organizations.

66. In cooperation with the Ministry of Health, ICBF will set up programmes which cover its specific areas of activity and are designed to strengthen and protect indigenous minors and families on the basis of their own systems and with the participation of each community in food self-sufficiency, endogenous, sociabilization and social supervision Programmes for minors will also be formulated on the basis of the provisions of articles 21, 93, 239 and 311 of Decree No. 2737 of 1989 (annex 5).

Social communication programmes

67. Education programmes will be carried out to create sustained awareness of the value and cultural wealth of indigenous peoples. Campaigns will focus on the meeting of two worlds and will be conducted as part of the celebration of the 500th anniversary of the Discovery.

68. An information strategy will be aimed at the management, political and institutional sectors and at the mass media in order to increase and improve their knowledge so that they might support initiatives taken by indigenous communities.

69. Activities will be carried out for officials of agencies working on indigenous programmes to increase awareness of the value and cultural differences of each indigenous community and the need to respect and protect them.

70. Studies will be carried out on channels of communication within organizations and social participation in indigenous communities in order to start learning about areas of influence and the means they use for communicating with one another.

Operational method

71. In accordance with the legal provisions in force, indigenous policy will be directed by the Ministry of the Interior through the Indigenous Affairs Division. Agencies which now handle programmes for indigenous communities will take part in the implementation of this policy.

72. Since the 500th anniversary of the discovery of America is being celebrated in 1992, it is hoped that indigenous peoples will achieve specific recognition in the Political Constitution of Colombia and in decisions adopted by the National Constituent Assembly, which, it should be noted, has two indigenous members who were freely elected in the voting which took place on 9 December 1990, Lorenzo Muelas Hurtado and Francisco Rojas Birry.

73. In conclusion, the fundamental and priority objective of Government policy is to improve the living conditions of indigenous communities on the basis of respect for their autonomy, recognition of their right to participation in society, support for social processes to promote self-management and alternative forms of social and economic development, bearing in mind the cultural values and characteristics of each people.

74. The intention of the Government of Colombia has been and will continue to be to promote the preservation and knowledge of the particular features of indigenous communities and to gear all efforts towards the development of their well-being while ensuring peaceful co-existence with and respect for other sectors of society.